

**REMARKS**

Applicants respectfully request entry of the present amendment to the first sentence of the application to include a benefit claim.

Applicants' Utility Patent Application Transmittal in this application specifies that the application is a divisional of Application No. 09/902,878. This benefit claim has been recognized by the Office. In particular, the Filing Receipt for this application states that "This application is a DIV of 09/902,878 07/11/2001 PAT 6,734,552."

M.P.E.P. § 201.11 explains that, under certain circumstances, an applicant may make an amendment to include a late benefit claim (to conform to 37 C.F.R. § 1.78(a)) without filing a petition under 37 C.F.R. § 1.78(a) and the surcharge under 37 C.F.R. § 1.17(t):

If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration *or the application transmittal letter*) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt. [Emphasis added by Applicant.]

Here, Applicants' benefit claim was submitted in the application transmittal letter, and has been recognized by the Office, as shown by its inclusion on the filing receipt.

For these reasons, Applicants respectfully request entry of this amendment.


Applicants believe that no fee is necessary in connection with this Amendment.

But in the event that the Commissioner determines that additional fees are due, the undersigned hereby authorizes the Commissioner to charge any fees required therefor to Milbank's deposit

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account no. 13-3250, order no. 36080-00802. A DUPLICATE COPY OF THIS PAGE IS  
ENCLOSED HEREWITH.

Respectfully submitted,  
Milbank, Tweed, Hadley & McCloy LLP



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Reg. No.: 41,030

August 24, 2005

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